

REMARKS

Claims 1-53 are pending in the above-identified patent application. Claims 28-36 and 45-53 are withdrawn. No claims are amended herein and no new matter is introduced.

A. Restriction and Election with Partial Traverse

The Applicants note with appreciation that the species (a), (b) and (c) identified by the Examiner in the previous Office Action are now considered a single patentable invention.

In the instant Office Action the Examiner restricted the invention to one of the following Groups under 35 USC §121:

- I. Claims 1-27, 37-44 and 54-55, drawn to a method for authenticating a textile material comprising applying a nucleic acid marker mixture to fibrous material, in class 427;
- II. Claims 45-53, drawn to a method for authenticating a textile material comprising applying a nucleic acid marker mixture to fibrous material, in class 427; and
- III. Claims 28-36, drawn to a method for manufacturing a marked textile comprising embedding a nucleic acid marker and infrared marker into a fiber, in class 427.

Applicants elect Group I, without traverse. Claims 28-36 and 45-53 are withdrawn.

The Examiner further required within Group I an election of one of the following species:

- a) adding the nucleic acid mixture during bale opening;
- b) adding the nucleic acid mixture during knitting/weaving; or
- c) adding the nucleic acid mixture during dyeing.

The Examiner stated, *inter alia*, that these three groups are "patentably distinct species" and that "claims to the different species recite the mutually exclusive characteristics of such species".

For examination purposes, Applicants provisionally elect species "b", adding the nucleic acid mixture during knitting/weaving.

Applicants respectfully traverse the Examiner's statement that the three species noted above are patentably distinct. MPEP §806.04(f) provides that claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first. To require restriction between claims limited to species, the claims must not overlap in scope. The three species identified by the Examiner merely represent when (during the claimed authentication process) the nucleic acid marker is introduced, and are not "mutually exclusive characteristics". Applicants note that neither independent claim 1 nor any of its dependent claims 2-27 and 54, 55 include any such limitation, and these claims overlap in scope. Applicants do not believe that claims 1-27 and 54, 55 can be examined in the context of the species identified by the Examiner, as there are no recited limitations that give rise to the species identified by the Examiner. Accordingly, Applicants respectfully believe that the species identified by the Examiner are not patentably distinct.

E. Conclusion

In view of all of the foregoing, Applicants believe that species (a), (b) and (c) as identified by the Examiner represent a single invention. Applicants request that the above identified patent application be examined accordingly. Applicants request a three month extension of time for reply pursuant to 37 CFR §1.136(a). The fee for extension pursuant to 37 CFR §1.17 (a)(2) is submitted herewith.

Respectfully Submitted;



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